

Customer No. 24498  
Attorney Docket No. PU030179  
Office Action Date: July 9, 2008

**Remarks/Arguments**

Claims 1-22 are pending.

Claim 19 has been found to contain allowable subject matter.

Claims 1-4, 12, 21 and 22 have been amended. No new matter is believed to be added by the present amendment.

**Objections to claim 21 under 35 USC 101 and 35 USC 112, 2<sup>nd</sup> paragraph**

The objections to claim 21 are traversed. Claim 21, as amended, is directed to a computer readable medium storing code, which when executed by a processor, for performing the method of claim 12. Applicants submit that the claim is directed to statutory subject matter and satisfies 35 USC 112, 2<sup>nd</sup> paragraph.

**Rejection of claims 1-2, 4-7, 9, 12-14, and 20-22 under 35 USC 103(a) as being unpatentable over Fujisawa (US Pat No 7,352,726) in view of Skarica et al. (US Pat No 7,171,121, hereinafter Skarica) in view of Lemieux et al. (US Pat No 6,968,374, hereinafter Lemieux).**

Applicants submit that for at least the reasons discussed below claims 1-2, 4-7, 9, 12-14, and 20-22 are patentably distinguishable over the teachings of the suggested combination of references.

Applicants' claim 1 includes the features of

determining a priority code associated with a data packet of said stream;

establishing a channel in response to said priority code for communicating information in said stream of packet based digital data to a second communications network, the second communications network having a communications protocol that allows for set up and communications over discrete channels of a reserved bandwidth

On page 5 of the Office action it is admitted that Fujisawa and Skarica do not disclose determining a priority code associated with the data packet and establishing a channel in response to the priority code of communicating information in the stream of packets based on digital data to the second network. The Office points to Lemieux col. 8, lines 22-25. However, Lemieux simply describes that packet flows have associated

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QoS requirements as pointed out on page 5 of the Office action. There is nothing in Lemieux that suggests determining a priority code and establishing a channel in response to said priority code.

The Office action appears to take the position that the QoS requirements described in Lemieux require the presence of applicants' recited priority code. Applicants' respectfully disagree that there is such a requirement.

Lemieux discloses in col. 7, lines 31-64 that each packet flow reaching the node has associated therewith at least one QoS requirement for its transit over the IP network. The network channel is established in accordance with the requirements.

However, Lemieux only discloses that the *requirements* are associated with the packet flow based upon there being a Service Level Agreement (SLA); there could be an associating of a type of traffic, for example all packet flows pertaining to multimedia conferences; or a source sends a traffic specification request.

None of the disclosed QoS requirements suggest the determining of a priority code and establishing a channel in response to said priority code. Thus, even if Lemieux discloses the determining of a QoS requirement, there is nothing that suggest the QoS Requirements is equivalent to applicants' claimed priority code.

Therefore, it is respectfully submitted that the combination of references fails to teach or suggest each and every feature recited in claim 1 and the rejection should be withdrawn.

Independent apparatus claim 5 includes the feature of: a processor, in communication with said first transceiver, for determining a priority code associated with a data packet received by said first transceiver.

Applicants essentially repeat the above argument pointing out why the combination of references fails to teach or suggest each and every feature recited in claim 5, for example the priority code associated with a data packet.

Independent method claim 12 includes the feature of: a reserved bandwidth channel based on a priority value included in said prioritized data packet, the second communications network having a communications protocol that allows for set up and communications over discrete channels of a reserved bandwidth.

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Applicants submit that a priority value is different from the QoS requirements of Lemieux as discussed above with respect to claim 1. Furthermore, Lemieux does not disclose a priority value included in said prioritized data packet. Lemieux discloses looking at the packet to find a type of traffic and does not teach applicants' claimed features. Applicants essentially repeat the above argument pointing out why the combination of references fails to teach or suggest each and every feature recited in claim 12.

Independent apparatus claim 20 includes the feature of: a processor adapted for communicating with said first transceiver and for determining a priority code associated with a data packet received by said first transceiver;

Applicants essentially repeat the above argument pointing out why the combination of references fails to teach or suggest each and every feature recited in claim 20, for example the priority code associated with a data packet.

In light of the remarks above, it is believed that the elements of independent base claims 1, 5, 12 and 20 and the claims dependent thereon would not have been obvious to a person of ordinary skill in the art upon a reading of the combination of references, separately or in combination with other known prior art.

The additional cited references, Brewer, Hamamoto et al., Walke et al., RFC 0793, and Naudus, are put forth to allegedly show the features in certain dependent claims, however none of the references cures the deficiencies of the base combination of references pointed out above.


For at least the foregoing reasons it is submitted that claims 1-18 and 20-22 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

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### Conclusion

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,  
Thomas Stahl, et al.

By:   
Paul P. Kiel  
Attorney for Applicant[s]  
Registration No. 40,677

THOMSON Licensing LLC  
PO Box 5312  
Princeton, NJ 08543-5312

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